

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

RICK SOBER and KIMBERLY SOBER,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. CIV-18-736-C
	)	
COLUMBIA NATIONAL	)	
INSURANCE CO.,	)	
	)	
Defendant,	)	

**ORDER**

Plaintiffs have filed a Motion for Summary Judgment requesting judgment on one of the affirmative defenses pled by Defendant. Plaintiffs argue that defense rests on a statute that has been held unconstitutional by the Oklahoma Supreme Court. In response, Defendant notes that prior to Plaintiffs filing their Motion, it advised them it was withdrawing the defense. Defendant also directs the Court to its answer to Plaintiffs' Interrogatory No. 15 where it noted the defense was no longer valid in light of the Oklahoma Supreme Court's ruling.

Because Defendant clearly withdrew the defense prior to Plaintiffs' Motion, the Motion is moot. Accordingly, Plaintiffs' Motion for Summary Judgment on Columbia's Affirmative Defense Number Five Asserting 23 O.S. § 61.2 (Dkt. No. 54) is STRICKEN as MOOT.

IT IS SO ORDERED this 15th day of October, 2019.

  
ROBIN J. CAUTHRON  
United States District Judge